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Tien, Chung Chin

State supervision over municipal finance...

Urbana, Ill.

1930

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BY

CHUNG CHIN TIEN

B. A., Peking National University, 1923
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AN ABSTRACT OF A THESIS

SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF DOCTOR OF PHILOSOPHY IN POLITICAL SCIENCE IN THE GRADUATE SCHOOL OF THE UNIVERSITY OF ILLINOIS, 1930

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ERRATA

First line on Page 9 should be the second line on Page 10.

Footnote 4 on Page 14 should read footnote 7.

STATE SUPERVISION OVER MUNICIPAL FINANCE IN ENGLAND AND THE UNITED STATES

ABSTRACT

The purpose of this thesis is to give a comparative study of state supervision over municipal finance in England and the United States. The reasons for such a specific study are that first, "the finances of the city involves directly or indirectly virtually all the city's problems." Secondly, England and the United States have been and still are changing from legislative to administrative supervision over their municipalities. The causes and effects of this change deserve special attention and may throw light on what ought to be the relation of the city to the state.

The materials for this thesis have been mostly drawn from official publications, such as Parliamentary Acts, state constitutions and legislative acts, reports of governmental agencies and other public documents. Some books and periodicals dealing with national, state and local finance, and with general municipal government have also been used occasionally.

In preparing this thesis, the author owes much to the helpful guidance and encouragement of Professor J. A. Fairlie of the University of Illinois.

This study is divided into eight chapters. In the introductory chapter, the relation of the city to the state from ancient times to the present period is discussed. From this general review, it is seen that in ancient Greece, the city was identified with the state, and municipal activities were not supervised by any higher state authority. The result was that on the one hand each city had its initiative and the citizens were interested in public affairs. They contributed to the world a system of democracy, the most valuable philosophy, arts and literature. On the other hand,

the cities had too much freedom to develop into a national state. They were jealous of each other and frequently waged war with each other. They could not stand together to fight a common enemy; so they were conquered one after another by their neighbors.

Rome developed from a city--state into an empire. By the time Constantine was emperor the various municipalities within the empire were supervised so strictly by the higher authorities that the officials of the cities were forbidden to leave without the consent of the state authorities lest they escape from the financial burden of the state. The result was that the city officials lost their initiative and the citizens their public spirit. In the latter period of the Roman empire the cities were either governed by a self-perpetuating body or by bishops of the church. The empire as a whole became degenerate and eventually collapsed.

In the middle ages the cities of Continental Europe were almost independent states. They struggled with the feudal lords, the bishops, the crown, and with each other. Accordingly the whole continent became chaotic and war was prevalent everywhere.

From the seventeenth century to the end of the eighteenth century Prussian cities were entirely under central control. The result was, as Dahlmann said, that "in reducing the communes to a condition of enfeeblement, the nation as a whole had lost power and courage, for having been disqualified from discharging the duties of every day life, it was incapaciated from meeting larger responsibilities."[1]

Since the nineteenth century, European cities have gradually secured a new position. On the one hand, they belong to the state and are subject to central supervision. On the other hand, they are not entirely controlled by higher authorities, they may develop local interests themselves. At the present time, state supervision over municipalities

[1] Dawson, W. H., "Municipal Life and Government in Germany," P. 14.

may be generally classified into two systems: (1) legislative supervision, (2) administrative supervision. The former prevails in England and the United States, and the latter in Continental Europe and many states in other lands.

As England and the United States have become industralized and their cities have grown rapidly, the rigid and inelastic legislative supervision does not meet the new situation. Administrative supervision over municipalities has gradually developed in these two countries. On the other hand, administrative control over cities has been severely criticized in Continental Europe. A movement for decentralization has recently started in both France and Germany, especially in Prussia since the World War.[2] Thus, in the present century, the problem of readjusting the relation of the city to the state needs further consideration. As time and space are limited, the author limits his discussion to state supervision over municipal finance in England and the United States.

As the first step of this study, the historical development of state supervision over municipal finance in England and the United States is traced, in Chapters II and III respectively. The author has found that before the first quarter of the nineteenth century the municipalities of both England and the United States were entirely under the control of the central legislatures. Since that time administrative supervision has been gradually developed. But the development in these two countries has been different in method and degree.

In England, a general municipal code, the first Municipal Corporations Act, was enacted in 1835. Later on a Public Health Act was passed in 1875, a second Municipal Corporations Act in 1882, Local Government Acts in 1888 and 1894, and many other important Acts were passed before the end of the nineteenth century. They deal with

[2] See Munro, W. B., "The Government of European Cities." PP. 236, 237, 357.

different objects, but in one respect they are similar: they are general laws and effective over all municipalities in one class or over all of them. Parliament has the right to enact special legislation for separate municipalities, and has passed many such laws. In practice, however, it has not abused its power so much as the state legislatures of the United States. It has rarely enacted any special law for a certain city without being requested though it has frequently authorized administrative authorities to exercise supervision over municipalities. Hence the system of administrative supervision over municipal finance began much earlier and has been developed much more comprehensively in England than in the United States.

In the United States, there were few comprehensive municipal codes, as the Municipal Corporations Act or Public Health Acts enacted in England, in the nineteenth century. The state legislatures abused their power in passing special acts for separate cities so much that people restricted their power and in the meantime regulated municipal activities by inserting provisions in their constitutions. Thus, constitutional restrictions over municipal finance have been developed in the United States since the middle of the nineteenth century.

In England the original purpose of creating administrative supervision over local finance was to improve the local financial administration. This has been shown in the establishment of the poor law board in 1834, the general board of health in 1848, the local government board in 1871 and the ministry of health in 1919. When it was realized that local conditions had changed and central administrative agencies entrusted to supervise local institutions were no longer able to carry on their work successfully, the latter have been reorganized and their powers redistributed in order to meet changing conditions. In this way, there has been developed in England a strong central authority, the ministry of health, to supervise the various local governmental units.

In the United States, the original purpose of establishing administrative supervision over local finance was to improve the financial condition of the state government. The establishment of state boards of equalization, state tax commissions, public examiners, state controllers or state auditors was not made originally for the purpose of improving local financial administration, but to improve the taxing and accounting systems of the state government. When the necessity of supervision of municipal finance was realized, the state rarely established any new agency to carry on such work, but authorized the existing central administrative authorities to perform it. In few states of the United States, can we find a central administrative authority with such comprehensive power in supervising the local administration as the ministry of health in England. It is common in the states of the United States to find that municipal taxation is supervised by one central administrative agency, accounts by another, and indebtedness by a third. Such unsystematic supervision over municipal finance is much less efficient than the English system.

As the development of administrative supervision over local finance in England was originally for the purpose of improving local financial administration, as soon as a strong central organ, the local government board, was established in 1871, Parliament began to simplify and make uniform the local governmental areas in order to enable the administrative authorities to exercise their supervision more efficiently. In the United States, the state governments so far have done very little in this respect. It is not uncommon that the areas of the county, the city, the sanitary and school districts, and many other local institutions, overlap each other. Each has power to levy taxes and to incur debts. Under such circumstances, it is difficult for the central authorities to exercise supervision effectively over local finance.

After the historical development of state supervision

over municipal finance of these two countries has been traced, a comparative study of their supervision over municipal revenues, expenditures, accounts and indebtedness at the present time, is given in chapters IV, V, VI and VII respectively. Both England and the United States exercise some slight supervision over municipal revenues other than rates or taxes. But in England, it is central administrative authorities which in giving approval to the municipalities in the acquisition of land and in granting aids, exercise some indirect control over the general rate fund of the boroughs and the urban districts. While in the states of the United States, there are only some statutory regulations over the revenue other than municipal taxes, such as the amount of the poll tax and the procedure in issuing licenses, etc.

Both of these two countries have statutory restrictions on municipal rates or taxes. But in England, the law prescribes the purposes of levying municipal rates so clearly and in such detail that a common taxpayer may understand whether a levy is legal or illegal and may appeal to the court to object to any rate which is not authorized by law. But the law does not set any limitation on the amount of municipal rates. The municipal councils have a free hand to levy as much as they think sufficient to carry out the legal purposes. In the states of the United States, it is generally provided that municipalities may levy rates for municipal purposes. Such purposes are, however, too complicated to be understood by a common taxpayer. But the state constitutions and statutes also restrict the amount of municipal taxes very arbitrarily and strictly. The cities are generally allowed to levy from one-half to two per cent of a dollar of the assessed valuation of property within their boundries.

In both England and the United States, central authorities exercise some control over municipal assessments. The power of the English central authorities in the supervision

of municipal assessments, is generally advisory; while in the states of the United States, the central authorities may equalize and review the assessments of taxes between counties, between various taxing units within the counties and between individuals. In a few states, they even may exercise the power of forcing the local assessors to follow their directions, and of appointment and removal of local assessors.

In the supervision of municipal expenditures, the English and American procedures are so different from each other that it is difficult to make a comparative description. In England, the expenditure of cities out of the general fund is closely restricted by statutory regulations. In the United States, there are almost no restrictions on municipal expenditure out of revenues from sources other than rates, in any state.

Although neither Parliament nor the administrative authorities in England exercise any supervision over municipal budget making, they may exercise some indirect influence over municipal budgets by granting subsidies to the municipalities or by withholding grants under certain circumstances. In some states of the United States, the procedure of municipal budget making is minutely regulated by statutes. In a few states, administrative authorities are authorized to exercise some direct supervision over municipal budgets. But except as to a few functions, as education and highways, there are few state grants to municipalities in any state.

In England, there is little state supervision over municipal appropriations, but the purpose of municipal expenditures is minutely prescribed by legislative acts. Any ratepayer is entitled to test the legality of any order of the municipal authorities for payment by removing it to the court. In the United States, there are quite a number of states which regulate municipal appropriations by statutory rules, none of the states, however, prescribes the purpose

of municipal expenditures so definitely as England. The state laws generally prescribe that the municipalities may appropriate money for municipal purposes only. But what is a municipal purpose is a difficult question. It is difficult for a common citizen to be sure whether a municipal appropriation is legal or illegal.

In the supervision of municipal accounts, there are many similarities between the procedures in England and in the United States. In England, the ministry of health is authorized to make various regulations concerning municipal accounts. In quite a number of states in the United States, central administrative authorities may do the same. In both of these two countries, some central appointed officials may audit certain kinds of municipal accounts. In both of them, the local authorities are required by law to make reports or to publish their accounts after being audited.

Nevertheless there are also some significant differences in the supervision of municipal acounts between these two countries. First, in England, all municipalities are under the control of one central government, therefore, each class of municipalities are approximately under the same central supervision. In the United States, there are forty-eight states, each of which is sovereign in the supervision of its local governmental areas. About one-third of the states exercise very little supervision over local accounts. In about two-thirds of them, the central administrative authorities exercise some supervision over local accounts but their power rarely extends to cities. It is only in about one-third of the states where central administrative authorities exercise effective supervision over municipal accounts.

Secondly, the English administrative authorities exercise very little supervision over the accounts of the chartered boroughs. It is the accounts of urban districts and some rural areas, which are subject to strict central super-

ties are under the control of one central government, while vision. Except in those states of the United States, which establish no central supervision over municipal accounts. the state administrative authorities usually exercise supervision over the accounts of all cities about the same; in some states, they even supervise the accounts of the larger cities more strictly than those of the smaller ones.

The central authorities of both England and the United States exercise very strict supervision over municipal indebtedness, but their methods of supervision are different in many respects. In England, there are no constitutional restrictions over municipal indebtedness at all, while in the United States, a majority of the states restrict the borrowing power of cities by such provisions.

In England, there are many statutory regulations over municipal debts, but such regulations are general and elastic; and they are enforced by central administrative authorities. Almost all states of the United States restrict the debt incurring power of their cities by constituional and statutory provisions minutely, and such restrictions are definite and inelastic. But in most of the states, these statutes are enforced by the cities themselves or by judicial proceedings, and no central administrative authorities are authorized to exercise supervision over them.

In other words, in both of these two countries, the central authorities exercise very strict supervision over municipal indebtedness. In England, it is the central administrative authorities who take the main part in such supervision, while in the United States, it is the state consitutions and statutes which regulate the borrowing power of municipalities considerably in detail, but state administrative authorities have very little discretion in exercising control over them.

In this comparative study, however, only the general features of the existing systems in these two countries, are considered. The author has not attempted to give a com-

plete and detailed comparison. In England, all municipali- in the United States, there are forty-eight separate sovereign entities in the supervision of their municipalities, and no two systems among these forty-eight states are exactly the same. Generally speaking, we may say that statutory control over municipal finance in England is not so strict as that in the United States, while administrative supervision has not been developed so effectively in the latter as in the former. But in some extreme cases, the opposite statement may be true. For instance, administrative supervision over local finance in Indiana is as strict as that in England. Statutory regulations over local finance in Delaware or Rhode Island are even less in detail than the various acts of Parliament. In studying the municipal code of almost any state in the United States, we find some exceptions. However, taking tht United States as a whole, it is safe to say that in England there is no system of constitutional restrictions over municipal finance, while in the United States the system of administrative supervision has not been developed so systematically or effectively as in England.

In the concluding chapter, the author has shown the advantages and disadvantages of the various important systems of state supervision over municipal finance in these two countries. In the opinion of the author, a satisfactory system of state supervision over municipalities is one which on the one hand encourages local initiative and on the other hand promotes the general welfare of the nation as a whole. If a system promotes the one effectively but in the meantime destroys the other, it is not a satisfactory system. Constitutional restrictions over the amount of municipal taxation or indebtedness are inelastic and ineffective. It can neither encourage local initiative nor promote general welfare. If this system has been justified historically, it has become unnecessary at the present time.

Statutory restrictions over the amount of municipal

tax levying and debt incurring are generally similar to constitutional provisions. The only difference is that the former are not so inelastic as the latter, because the state legislatures may change them from time to time. But as to taxes, such restrictions are not justified, because they destroy local initiative and in the meantime do not promote public interest. "There is no necessary relationship between the assessed value of property and the community's need for improvements or its ability to finance such needs."[3] If a municipality needs improvements and its taxpayers are willing to pay for them, there does not seem to be any need for the state to prohibit it from levying more than a certain per cent of the assessed valuation of property. In this respect, the English system is much better: the law prescribes minutely what a municipality may do, and allows it to levy as much as it needs for those purposes.

As to the amount of debts, the situation is different. Not only is it an obligation of the present taxpayers, but the future taxpayers will share some responsibility also. The present taxpayers are not justified in imposing an unlimited burden on the future; therefore, either the constitution or the statutes ought to set some limit on this power of the municipalities. In this respect again, the Enilish system is better. The statutory limit is general enough as not to prevent local initiative, in the meantime it prescribes minutely the purposes and terms of borrowing in order to protect the interest of the future taxpayers. In some states of the United States, as Massachusetts, New Jersey and North Carolina, the law concerning the terms and purposes of municipal debts is very concise and satisfactory, but the limitation on the amount seems to be too narrow to encourage local initiative.

From the result of the work of the tax commissions

[3] Lanchaster, Lane, "State supervision of municipal indebtedness," P. 31.

and the boards of equalization,[4] we may see that central supervision over municipal assessments may improve state financial administration and may increase the state and local revenues. But is it dangerous to local initiative? The answer is negative. On the other hand, the author feels that it may even encourage it. Municipal home rule should not mean misrule. Should the municipal authorities impose tax burdens inequitably, those who are agrieved will not trust their local government. If people are under the control of a government which they distrust, their spirit of initiative will be discouraged. On the contrary, if the municipal authorities, on account of central supervision, make each taxpayer pay his fair share of taxes, people will have confidence in them. Therefore, it seems clear that administrative supervision over local assessment is justified. The only question is that the present central agencies in England and the United States are not very efficient in checking the mistakes of local assessments. As we have mentioned above, the English central agencies may only exercise some advisory power over local assessments; the United States goes further. But even in the latter, the various systems which exist in the various states are not efficient enough to accomplish their task. In many states, the power of the central agencies is limited to equalizing the assessments among counties, they can do little to promote an equitable valuation of property within municipalities. In all of the states, the assessors are locally selected and are poorly paid.

It is conceivable, accordingly, that the power of the central agencies both in England and the United States should be enlarged so as to equalize the assessment of the various units within the counties, and to reassess the property of individuals and corporations in any municipality. The local assessors should either be appointed by

[4] See Indiana State Board of Tax Commissioners, Annual Report, 1928; Louisiana Assessment and Taxation Commission, Report 1921; and Tennessee State Board of Equalization, Report, 1919-20.

these central agencies, or they should be selected under civil service rules by competitive examination. Their compensation should be increased so as to attract competent persons to such positions.[5]

In England, the municipal authorities cannot incur any debt unless it is specially authorized by Parliament or is approved by a central administrative authority. In a few states of the United States, as Indiana and Iowa, some central administrative authorities are authorized to review local budgets and debts, upon the appeal of a certain number of taxpayers. It is such central approval and review which forms the debating topic of the proponents and opponents of centralization. Some writers have criticized such systems as dangerous to democracy and local self-government, but some have favored them as a check to misrule and a protection to the spirit of democracy.[6] The author is led to think that if the purpose of central approval and review is to check local extravagance or corruption, it is not dangerous to democracy and local self-government at all, while if the central authorities go further than this and consider the advisability of the improvement itself and the ability of the taxpayers to bear a certain amount of taxes, they become a policy determining body for the municipality, and there will be danger to local self-government and democracy. Indeed, local initiative will be destroyed and local government will become merely agencies of the central government, if the people in the municipalities do not have an opportunity to plan the improvement they wish to have.

In the past, for the most part, the central authorities

[5] See The Wisconsin Tax Commission, Report, 1916..

[6] See Indiana State Board of Tax Commissioners, Report, 1926, 1928; Kilpatrick, Wylie, "State Administrative Review of Local Budget Making." Zoecher, Philip, "The Indiana Scheme of Central Supervision of Local Expenditures." (National Municipal Review, Vol. XIV, 1925, PP. 63, 64, and Griffith, E. S., "Modern Development of City Government," Vol. II. Ch. XI.

of both England and the United States have only tried to check local extravagance. In some cases, however, they have gone so far as to determine local policy.[4] Therefore, in the opinion of the author, central approval and review of these two countries ought to be continued and extended, but they should be prohibited from interfering with local policy. On this account, the author does not favor the system of grants in aid, because as a matter of fact, it dominates local policy and destroy local initiative.

Central audit of municipal accounts are desirable in both of these two countries. The only unsatisfactory situation in England is that, the general accounts of the boroughs are not subject to central audit, and in the United States, about two-thirds of the states have no such system yet. One point of the English system deserves more comment: that is, any expenditure which has been approved by the ministry of health, must not be disapproved by the district auditors. Under such a system, local initiative may not be halted by statutory regulations; on the other hand, municipal authorities cannot go too far as to do what they think necessary even if it is against the law.

The advisory and coordinating functions of the central authorities of these two countries, as in collecting financial information, publishing financial statistics and giving assistance to local authorities in tax assessment and keeping accounts, are new and valuable contributions in the supervision over municipal finance. This kind of supervision, not arousing local suspicion and resistance, may even cultivate good will and understanding between the local and the central governments, and give the taxpayers correct information on local financial administration. Under this system, the central government and the local units instead of being antagonistic to each other, will cooperate with each other.

[4] See Fourth Annual Report of the Ministry of Health, 1922-1923, P. 52; Annual Report of the State Board of Tax Commissioners of the State of Indiana," 1928; and Kilpatrick, Wylie, Ibid.

In conclusion, it is safe to assert that if such an advisory and coordinating system is extended, the local taxpayers will have better knowledge and more correct information concerning the finances of their municipalities. Then they can exercise better direct control and such drastic measures as central approval and review over local budget making and debt incurring, will not be necessary.

VITA

The author of this study, Chung-Chin Tien was born in Chin Young district, Kan-su Province, China, February 7. 1903. He received his early education in Lan-Chow and Tientsin.

In the fall of 1919 he entered Peking National University, China, and graduated therefrom in 1923. He taught in Nankai University High School in 1924. He was editor of Shin Lung Magazine (New Kan-su) published in Peiping (Peking) from 1920 to 1925. In the summer of 1925 he was sent by the Ministry of Education of the National Government to study political science in the United States. He took graduate work in the University of Illinois from 1926 to 1927 and received the Master of Arts degree in the Political Science Department in 1927. In the following year, he studied at the University of Missouri. There he was elected as a student member of Alpha Pi Zeta, the national honorary social science fraternity. He returned to the University of Illinois in the fall of 1928 and has continued his work under the direction of Professor J. A. Fairlie.

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